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## FACSIMILE TRANSMITTAL SHEET

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FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
571-273-6500	4
PHONE NUMBER:	SENDER'S REFERENCE NUMBER:
	50-1732
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Erroneous charge to Deposit Account	50-1732

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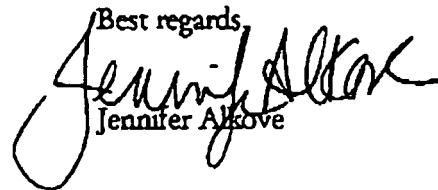
URGENT  FOR REVIEW  PLEASE COMMENT  PLEASE REPLY  ORIGINAL TO FOLLOW

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### NOTES/COMMENTS:

Please find attached a copy of our deposit account statement for December, 2008. The charge for serial number 09/750,766 (\$540.00) was charged in error. This is the second Notice of Appeal filed in this application; thus only the increase in fees of \$40.00 is due at this time. The supporting statement filed with the Notice of Appeal is attached.

Please refund our deposit account for \$540.00 and charge \$40.00. If you have any questions, please contact me.

Best regards,  
  
 Jennifer Alkove

NOTE: The information contained in this transmission is privileged and confidential and intended ONLY for the individual or entity named above. If you should receive this transmission in error, please notify our office and return to the below address via the U.S. Postal Service.

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Deposit Account Statement

Requested Statement Month: December 2008  
Deposit Account Number: 601732  
Name: WITHROW & TERRANOVA PLLC  
Attention:  
Street Address 1: P O BOX 1287  
Street Address 2:  
City: CARY  
State: NC  
Zip: 27512  
Country: UNITED STATES

DATE SEQ	POSTING REF	ATTORNEY DOCKET NBR	FEE CODE	AMT	BAL
12/18 1	09750766	7000-526	1401	\$540.00	\$583.00
12/23	6476 E-REPLENISHMENT		9203	-\$1,000.00	\$1,583.00
12/23	6504 10742196	7000-303	1801	\$810.00	\$773.00
12/31	155 SERVICE CHARGE		9202	\$25.00	\$748.00

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Brian B. Egan  
Serial No. 09/750,766

Filed: 12/28/2000

For: **VOICE OPTIMIZATION IN A NETWORK HAVING VOICE OVER INTERNET  
PROTOCOL COMMUNICATION DEVICES**

Examiner: Clemence S. Han  
Art Unit: 2616

Mail Stop Appeals  
Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Sir:

**STATEMENT FOR DISCOUNTED NOTICE OF APPEAL**

A Notice of Appeal is being filed concurrently with this statement. Appellant previously filed a Notice of Appeal on November 10, 2005 and an Appeal Brief on December 23, 2005. Appellant paid the \$500.00 fee associated with the Notice of Appeal and the Appeal Brief when each was filed.

In response to the Appeal Brief filed on December 23, 2005, prosecution was reopened through the mailing of a non-final Office Action on February 27, 2006. Appellant filed a response on May 23, 2006. A Final Office Action was mailed on August 25, 2006 and remailed on February 28, 2007, since the Final Office Action mailed August 25, 2006 was sent to the wrong attorney and neither Appellant nor Appellant's current representative received the Final Office Action. In response to the Final Office Action mailed February 28, 2007, Appellant filed a response on April 30, 2007. Appellant then filed a second Notice of Appeal on August 28, 2007. In light of an Advisory Action mailed August 30, 2007, after Appellant had filed the Notice of Appeal, Appellant decided to reopen prosecution and submitted a response to the Advisory Action with a Request for Continued Examination on November 28, 2007. A non-final Office Action was mailed on March 19, 2008 to which Appellant responded on June 12, 2008. A Final Office Action was issued on October 6, 2008 to which Appellant currently responds by filing a third Notice of Appeal. As such, the Appeal Brief filed on December 23, 2005 was not reviewed by the Board of Patent Appeals and Interferences and no decision was rendered in response to the Appeal Brief. Appellant has continued prosecution and concurrently files a new Notice of Appeal.

Appellant should not have to pay the full amount of \$540.00 for this Notice of Appeal because the Notice of Appeal filed on November 10, 2005, the Appeal Brief filed on December 23, 2005, and the Notice of Appeal filed on August 28, 2007 had been paid for and no decision had been rendered. See M.P.E.P § 1207.04. Appellant notes that the fee for a Notice of Appeal increased by \$40.00. As such, only the \$40.00 fee is due for the current Notice of Appeal. The Director is hereby authorized to charge the \$40.00 Notice of Appeal fee to Deposit Account 50-1732, and to consider this a petition therefor. If any additional fees are required in association with this Notice of Appeal, the Director is hereby authorized to charge them to Deposit Account 50-1732, and consider this a petition therefor.

Respectfully submitted,  
WITHROW & TERRANOVA, P.L.L.C.

By:



John R. Witcher, III  
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Date: December 15, 2008  
Attorney Docket: 7000-526

Document code: WFEE

United States Patent and Trademark Office  
Sales Receipt for Accounting Date: 12/18/2008

VWILLIAM SALE #00000001 Mailroom Dt: 12/15/2008 501732 09750766  
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Adjustment date: 01/28/2009 SDIRETA1  
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01 FC:1401 540.00 CR

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>NOTICE OF APPEAL FROM THE EXAMINER TO THE BOARD OF PATENT APPEALS AND INTERFERENCES</b>		Docket Number (Optional) <b>7000-526</b>							
<p>I hereby certify that this correspondence is being transmitted via facsimile on the date indicated below to:</p> <p>Examiner: _____ Fax Number: _____ Art Unit: _____ Date: _____</p> <p>Signature _____</p> <p>Typed or printed name _____</p>		<p>In re Application of <b>Brian B. Egan et al.</b></p> <table border="1"> <tr> <td>Application Number <b>09/750,766</b></td> <td>Filed <b>12/28/2000</b></td> </tr> <tr> <td colspan="2">VOICE OPTIMIZATION IN A NETWORK HAVING VOICE OVER INTERNET PROTOCOL FOR COMMUNICATION DEVICES</td> </tr> <tr> <td>Art Unit <b>2616</b></td> <td>Examiner <b>Clemence S. Han</b></td> </tr> </table>		Application Number <b>09/750,766</b>	Filed <b>12/28/2000</b>	VOICE OPTIMIZATION IN A NETWORK HAVING VOICE OVER INTERNET PROTOCOL FOR COMMUNICATION DEVICES		Art Unit <b>2616</b>	Examiner <b>Clemence S. Han</b>
Application Number <b>09/750,766</b>	Filed <b>12/28/2000</b>								
VOICE OPTIMIZATION IN A NETWORK HAVING VOICE OVER INTERNET PROTOCOL FOR COMMUNICATION DEVICES									
Art Unit <b>2616</b>	Examiner <b>Clemence S. Han</b>								
<p>Applicant hereby appeals to the Board of Patent Appeals and Interferences from the last decision of the examiner.</p> <p>The fee for this Notice of Appeal is (37 CFR 1.17(b)) <b>\$ 40.00</b></p> <p><input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee shown above is reduced by half, and the resulting fee is: <b>\$ _____</b></p> <p><input type="checkbox"/> A check in the amount of the fee is enclosed.</p> <p><input type="checkbox"/> Payment by credit card. Form PTO-2038 is attached.</p> <p><input type="checkbox"/> The Director has already been authorized to charge fees in this application to a Deposit Account. I have enclosed a duplicate copy of this sheet.</p> <p><input checked="" type="checkbox"/> The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. <b>50-1732</b>. I have enclosed a duplicate copy of this sheet.</p> <p><input type="checkbox"/> A petition for an extension of time under 37 CFR 1.136(a) (PTO/SB/22) is enclosed.</p>									
<p><b>WARNING:</b> Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.</p> <p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration number <b>39,877</b></p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34(a). Registration number if acting under 37 CFR 1.34(a). _____</p>									
<p><i>John R. Witcher, III</i> Signature</p> <p><b>John R. Witcher, III</b> Typed or printed name</p> <p><b>919-238-2300</b> Telephone number</p> <p><b>December 15, 2008</b> Date</p>									
<p><b>NOTE:</b> Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.</p> <p><input type="checkbox"/> *Total of _____ forms are submitted.</p>									

This collection of information is required by 37 CFR 1.191. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Adjustment date: 01/28/2009 SDIRETAA1  
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